

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2007-1724-AIR-E **TCEQ ID:** RN100213594 **CASE NO.:** 34860
RESPONDENT NAME: Lee-Var, Inc. dba Palmer of Texas

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Palmer of Texas Andrews Plant, 1701 Highway 385 North, Andrews, Andrews County</p> <p>TYPE OF OPERATION: Tank manufacturing</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on April 21, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Audra L. Ruble, Enforcement Division, Enforcement Team 4, MC R-14, (361) 825-3126; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Jim D. Lee, President, Lee-Var, Inc. dba Palmer of Texas, P.O. Box 1069, Andrews, Texas 79714 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: August 9, 2007</p> <p>Date of NOE Relating to this Case: October 5, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR:</p> <p>Failure to comply with emission standards for hazardous air pollutants ("HAPs"). Specifically, the average emission limit of 150.9 pounds per ton ("lbs/ton") for styrene was exceeded three times during the period from April 2006 through June 2007. For the initial 12 month averaging period of April 2006 through April 2007, the emission limit was exceeded by an average of 32%. The emission limits for May and June 2007 were exceeded by 49.6% and 26.3%, respectively [30 TEX. ADMIN. CODE §§ 101.20(2) and 122.143(4), 40 CODE OF FEDERAL REGULATIONS § 63.5805(b), Federal Operating Permit No. 2704, Special Terms & Conditions 1D, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$19,050</p> <p>Total Deferred: \$3,810 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$15,240</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will Require the Respondent to:</p> <p>a) Within 60 days after the effective date of this Agreed Order, implement procedures to ensure compliance with HAPs emission limits; and</p> <p>b) Within 75 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): Air Account No. AB0023R



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision November 6, 2007

TCEQ

DATES	Assigned	8-Oct-2007	PCW	8-Nov-2007	Screening	23-Oct-2007	EPA Due	15-Aug-2008
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RESPONDENT/FACILITY INFORMATION

Respondent	Lee-Var, Inc. dba Palmer of Texas		
Reg. Ent. Ref. No.	RN100213594		
Facility/Site Region	7-Midland	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	34860	No. of Violations	1
Docket No.	2007-1724-AIR-E	Order Type	1660
Media Program(s)	Air	Enf. Coordinator	Audra L. Ruble
Multi-Media		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$15,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	27% Enhancement	Subtotals 2, 3, & 7	\$4,050
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Notes: The Respondent has received one 1660 Agreed Order, one NOV for same or similar violations, and one NOV for non-similar violations in the past five years.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

Subtotal 6	\$0
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Total EB Amounts	\$571	0% Enhancement*
Approx. Cost of Compliance	\$5,000	*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$19,050
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$19,050
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STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty	\$19,050
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DEFERRAL	20%	Reduction	Adjustment	-\$3,810
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$15,240
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Screening Date 23-Oct-2007

Docket No. 2007-1724-AIR-E

PCW

Respondent Lee-Var, Inc. dba Palmer of Texas

Policy Revision 2 (September 2002)

Case ID No. 34860

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN100213594

Media [Statute] Air

Enf. Coordinator Audra L. Ruble

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 27%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent has received one 1660 Agreed Order, one NOV for same or similar violations, and one NOV for non-similar violations in the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 27%

Screening Date 23-Oct-2007		Docket No. 2007-1724-AIR-E		PCW	
Respondent Lee-Var, Inc. dba Palmer of Texas		<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 34860		<i>PCW Revision November 6, 2007</i>			
Reg. Ent. Reference No. RN100213594					
Media [Statute] Air					
Enf. Coordinator Audra L. Ruble					
Violation Number		<div style="border: 1px solid black; padding: 2px; text-align: center;">1</div>			
Rule Cite(s)		<div style="border: 1px solid black; padding: 2px;">30 Tex. Admin. Code §§ 101.20(2) and 122.143(4); Tex. Health & Safety Code § 382.085(b); 40 Code of Federal Regulations § 63.5805(b); and Federal Operating Permit No. 2704, Special Terms & Conditions 1D</div>			
Violation Description		<div style="border: 1px solid black; padding: 2px;">Failed to comply with emission standards for hazardous air pollutants, as documented during an investigation conducted on August 9, 2007. Specifically, the average emission limit of 150.9 lbs/ton for styrene was exceeded three times during the period from April 2006 through June 2007. For the initial 12 month averaging period of April 2006 through April 2007, the emission limit was exceeded by an average of 32%. The emission limits for May and June 2007 were exceeded by 49.6% and 26.3%, respectively.</div>			
Base Penalty					<div style="border: 1px solid black; padding: 2px; text-align: right;">\$10,000</div>

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			
		Major	Moderate	Minor	
	Actual	<div style="border: 1px solid black; padding: 2px; text-align: center;"> </div>	<div style="border: 1px solid black; padding: 2px; text-align: center;">x</div>	<div style="border: 1px solid black; padding: 2px; text-align: center;"> </div>	Percent
	Potential	<div style="border: 1px solid black; padding: 2px; text-align: center;"> </div>	<div style="border: 1px solid black; padding: 2px; text-align: center;"> </div>	<div style="border: 1px solid black; padding: 2px; text-align: center;"> </div>	<div style="border: 1px solid black; padding: 2px; text-align: right;">50%</div>

>> Programmatic Matrix

	Falsification				
	Major	Moderate	Minor		
	<div style="border: 1px solid black; padding: 2px; text-align: center;"> </div>	<div style="border: 1px solid black; padding: 2px; text-align: center;"> </div>	<div style="border: 1px solid black; padding: 2px; text-align: center;"> </div>	<div style="border: 1px solid black; padding: 2px; text-align: center;"> </div>	Percent
	<div style="border: 1px solid black; padding: 2px; text-align: center;"> </div>	<div style="border: 1px solid black; padding: 2px; text-align: center;"> </div>	<div style="border: 1px solid black; padding: 2px; text-align: center;"> </div>	<div style="border: 1px solid black; padding: 2px; text-align: center;"> </div>	<div style="border: 1px solid black; padding: 2px; text-align: right;">0%</div>

Matrix Notes

Human health and/or the environment have been exposed to a significant amount of pollutants that do not exceed protective levels.

Adjustment

\$5,000

\$5,000

Violation Events

Number of Violation Events	<div style="border: 1px solid black; padding: 2px; text-align: center;">3</div>		Number of violation days	<div style="border: 1px solid black; padding: 2px; text-align: center;">550</div>
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mark only one with an x	daily	<div style="border: 1px solid black; padding: 2px; text-align: center;"> </div>	Violation Base Penalty	<div style="border: 1px solid black; padding: 2px; text-align: right;">\$15,000</div>
	monthly	<div style="border: 1px solid black; padding: 2px; text-align: center;">x</div>		
	quarterly	<div style="border: 1px solid black; padding: 2px; text-align: center;"> </div>		
	semiannual	<div style="border: 1px solid black; padding: 2px; text-align: center;"> </div>		
	annual	<div style="border: 1px solid black; padding: 2px; text-align: center;"> </div>		
	single event	<div style="border: 1px solid black; padding: 2px; text-align: center;"> </div>		

Three monthly events (one for the initial review period, and for the months of May and June 2007) are recommended.

Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount	<div style="border: 1px solid black; padding: 2px; text-align: right;">\$571</div>	Violation Final Penalty Total	<div style="border: 1px solid black; padding: 2px; text-align: right;">\$19,050</div>
This violation Final Assessed Penalty (adjusted for limits)		<div style="border: 1px solid black; padding: 2px; text-align: right;">\$19,050</div>	

Economic Benefit Worksheet

Respondent Lee-Var, Inc. dba Palmer of Texas

Case ID No. 34860

Reg. Ent. Reference No. RN100213594

Media Air

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$5,000	21-Apr-2006	1-Aug-2008	2.3	\$571	n/a	\$571

Notes for DELAYED costs

Estimated cost for research and implementation of methods for reducing emissions. Date required is the initial date of noncompliance and Final date is when compliance is expected to be achieved.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$571

Compliance History

Customer/Respondent/Owner-Operator:	CN600126924	Lee-Var, Inc. dba Palmer of Texas	Classification: AVERAGE	Rating: 7.64
Regulated Entity:	RN100213594	PALMER OF TEXAS ANDREWS PLANT	Classification: AVERAGE	Site Rating: 11.57
ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	AB0023R	
	AIR OPERATING PERMITS	PERMIT	2704	
	AIR NEW SOURCE PERMITS	PERMIT	7630	
	AIR NEW SOURCE PERMITS	PERMIT	25359	
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	AB0023R	
	AIR NEW SOURCE PERMITS	AFS NUM	4800300014	
	AIR NEW SOURCE PERMITS	REGISTRATION	80749	
	STORMWATER	PERMIT	TXRNEQ078	
Location:	1701 Highway 385 N, Andrews Tx		Rating Date: September 01 07 Repeat Violator: NO	
TCEQ Region:	REGION 07 - MIDLAND			
Date Compliance History Prepared:	October 12, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	October 12, 2002 to October 12, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Audra Ruble	Phone:	(361) 825-3126	

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 04/14/2006 ADMINORDER 2005-1331-WQ-E (1660)
 Classification: Major
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
 40 CFR Chapter 122, SubChapter D, PT 122, SubPT B 122.26[G]
 Description: Failure to obtain Multi-Sector General Permit.

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 02/12/2003 (23970)
- 2 02/05/2004 (260180)
- 3 03/07/2005 (373330)
- 4 05/05/2005 (376931)
- 5 03/27/2006 (459347)
- 6 03/05/2007 (542902)
- 7 10/04/2007 (595750)
- 8 10/04/2007 (595655)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 02/02/2004 (260180)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
 Description: 101.20- Compliance with Environmental Protection Agency Standards.
 Date: 10/03/2007 (595750)
 Self Report? NO Classification: Minor

Citation:	30 TAC Chapter 101, SubChapter A 101.20(2) 5C THC Chapter 382, SubChapter D 382.085(b)	
Description:	Failure to comply with 30 TAC 101.20(2)- Compliance with Environmental Protection Agency Standards of applicable emissions standards for HAPS. Pursuit to 40 CFR 63 Subpart WWWW 63.5910(d) - Incorrectly reported 3 deviations as 1.	
Self Report?	NO	Classification: Minor
Citation:	30 TAC Chapter 101, SubChapter A 101.20(2) 40 CFR Chapter 63, SubChapter C, PT 63, SubPT WWWW 63.5910(b)(4)	
Description:	Failure to comply with 30 TAC 101.20(2)- Compliance with Environmental Protection Agency Standards for HAPS. Late submittal of Second Semi-Annual Compliance Report for 07/01/2006 - 12/31/2006 required under 40 CFR 63.5910(b)(4) was due by 01/31/2007. Submitted on 05/29/2007.	
Self Report?	NO	Classification: Minor
Citation:	30 TAC Chapter 116, SubChapter B 116.110(a)(4)	
Description:	Failure to comply with 30 TAC 116.110(a)(4)-New Source Review Permits. This is an alleged violation of Standard Exemption #75(e)(2)(i) now referred to as a PBR - Data shall be reduced monthly and a report produced monthly and #75 (e)(2)(ii) - The reports shall be completed no later than the 15th day of the following month.	
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.110(a)(4)	
Description:	Failure to comply with 30 TAC 116.110(a)(4)-New Source Review Permits which requires the RE to satisfy the conditions for facilities permitted by rule under 30 TAC 106 (relating to PBRs). VOC emissions from spray painting exceeded the 6.0 lb/hr emission limit on 114 days.	
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.110(a)(4)	
Description:	Failure to comply with 30 TAC 116.110(a)(4)-New Source Review Permits which requires the Regulated Entity to satisfy the conditions for facilities permitted by rule under 30 TAC 106 (relating to PBRs). More than one outdoor spray painting operation was on-going at the same time at the facility.	
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.110(a)(4)	
Description:	Failure to comply with 30 TAC 116.110(a)(4)-New Source Review Permits which requires satisfying the conditions for facilities permitted by rule under 30 TAC 106 (relating to PBRs). Emissions from sandblasting exceeded the one ton per day limit of Standard Exemption #102(b)(1)- Dry Abrasive Cleaning usage rate, which is now referred to as a PBR.	

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
LEE-VAR, INC. DBA PALMER OF
TEXAS
RN100213594

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2007-1724-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Lee-Var, Inc. dba Palmer of Texas ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a tank manufacturing facility located at 1701 Highway 385 North in Andrews, Andrews County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about October 10, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Nineteen Thousand Fifty Dollars (\$19,050) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Fifteen Thousand Two Hundred Forty Dollars (\$15,240) of the administrative penalty and Three Thousand Eight Hundred Ten Dollars (\$3,810) is deferred

contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have failed to comply with emission standards for hazardous air pollutants ("HAPs"), in violation of 30 TEX. ADMIN. CODE §§ 101.20(2) and 122.143(4); TEX. HEALTH & SAFETY CODE § 382.085(b); 40 CODE OF FEDERAL REGULATIONS ("CFR") § 63.5805(b); and Federal Operating Permit No. 2704, Special Terms & Conditions 1D, as documented during an investigation conducted on August 9, 2007. Specifically, the average emission limit of 150.9 pounds per ton for styrene was exceeded three times during the period from April 2006 through June 2007. For the initial 12 month averaging period of April 2006 through April 2007, the emission limit was exceeded by an average of 32%. The emission limits for May and June 2007 were exceeded by 49.6% and 26.3%, respectively.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

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1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Lee-Var, Inc. dba Palmer of Texas, Docket No. 2007-1724-AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 60 days after the effective date of this Agreed Order, implement procedures to ensure compliance with HAPs emission limits, in accordance with 40 CFR § 63.5805(b); and
 - b. Within 75 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:


Air Section, Manager
Midland Regional Office
Texas Commission on Environmental Quality
3300 North A Street, Building 4, Suite 107
Midland, Texas 79705-5404

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

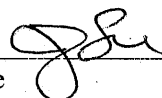
3/21/2008
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

1/28/08
Date

JIM D LEE
Name (Printed or typed)
Authorized Representative of
Lee-Var, Inc. dba Palmer of Texas

PRESIDENT
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

